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Secretary General  
Organization of American States (OAS)  
1889 F Street NW  
Washington, DC 20006

**Re: The Inter-American Democratic Charter and Mr. Insulza (Letter No. 5)**

Dear Secretary General Insulza,

Although you failed to respond to our last four letters, the Human Rights Foundation (HRF) sends you its fifth letter, continuing with the "The Inter-American Democratic Charter and Mr. Insulza" project. However, this time our letter does not purport to remind you of your obligation to activate the democratic clause against those governments that violate the essential elements of democracy. Instead, we write to request that you, at the very least, refrain from asking member states of the OAS to violate their own obligations under the Democratic Charter.

HRF is astounded by your recent declarations in which you announce that you "will ask" the General Assembly of the OAS to "eliminate" the "obsolete" 1962 resolution that excluded Cuba from participation in the different bodies of the OAS. These statements constitute an incitement to member states to violate their obligations under the OAS Charter and the Inter-American Democratic Charter. In furtherance of the OAS Charter (Art. 9), the Democratic Charter establishes that the unconstitutional alteration or interruption of the democratic order of a member state "constitutes, while it persists, an *insurmountable obstacle* to its government's participation" in all of the bodies of the OAS (Art. 19; emphasis added).

HRF would like to remind you that the Republic of Cuba is the only member state of the OAS (since 1952) with a government that, since 1959, has not complied with any of the five essential elements of democracy, which were established expressly in 2001 in Article 3 of the Inter-American Democratic

Charter. These elements are:

**1. Respect for human rights and fundamental freedoms;**

According to the 1962, 1963, 1967, 1970, 1976, 1979 and 1983 Inter-American Commission for Human Rights reports regarding the situation of human rights in Cuba, the present government of that country has committed systematic violations of human rights. These violations include: summary executions of political prisoners, collective and individually; arbitrary detentions; torture; rape and other forms of sexual violence; and other cruel, inhuman and degrading treatment of both men and women persecuted and imprisoned for political reasons.

The Cuban Constitution expressly prohibits the exercise of any kind of liberty that goes "against the existence and ends of the Socialist State" and "against the decision of the Cuban people to construct socialism and communism" (Art. 62). Presently, Cuba has more than 200 prisoners of conscience, impedes the exercises of rights and fundamental freedoms of its citizens, and prohibits the existence of an independent press. According to Reporters Without Borders, since 2003, Cuba is second—after China—in the total number of incarcerated journalists; and, according to a special 2003 report by the Committee for the Protection of Journalists, Cuba is one of the ten world leaders in censure of the press—along with North Korea, Eritrea, Uzbekistan, Syria, Belarus, Libya, Equatorial Guinea, Turkmenistan and Burma. In its 2008 World Report, Human Rights Watch affirms that the "repressive machinery built over almost five decades of Fidel Castro's rule remains intact and continues to systematically deny people their basic rights."

**2. ...access to and the exercise of power in accordance with the rule of law;**

As we affirmed in our Letter No. 1, in 1959 Fidel Castro overthrew the dictatorship of Fulgencio Batista and installed his own. In 1961, the government declared itself to be Marxist-Leninist and in 1976 imposed a constitution of the same style that concentrates power in the Communist Party of Cuba and the organizations that flow directly from it (Art. 5). Even today, Fidel Castro remains the Prime Secretary of the communist party.

**3. ...the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people;**

Cuba has not held democratic elections since 1948. In 1942, Batista perpetrated a coup and, in 1954, he won the election after imprisoning the opposition's main candidate. In 1959, Fidel Castro also took power by force and, since then, has not allowed democratic elections. Following the imposition of the 1976 Constitution, Cuban citizens periodically "elect" Communist Party candidates to be delegates to the Municipal Assemblies of Popular Power and members of the National Assembly of Popular Power (Art. 69). According to the 2007 Freedom House world report, in "2003 an election was held for the Cuban National

Assembly, with just 609 candidates—all supported by the regime—vying for 609 seats."

**4. ...pluralistic system of political parties and organizations;**

Cuba is ruled by a communist single-party regime, under which any other party or political organization is considered illegal. According to Article 5 of the Cuban Constitution: "The Communist Party of Cuba, Martian and Marxist-Leninist, organized vanguard of the Cuban nation, is the superior leading force of the society and the State, which organizes and orients the common forces towards the ultimate ends of socialist construction and the advancement of the communist society."

**5. ...and the separation of powers and independence of the branches of government.**

Among the candidates of the Communist Party of Cuba, the people "elect" the National Assembly of Popular Power, as the "supreme body of power of the State" (Art. 69) and charged mainly with the authority to "legislate" (Art. 75). The Assembly elects, among its members, the Council of State, which has the authority to "give the laws in force, as necessary, a general and obligatory interpretation" (Art. 90 inc. *(ch)*), as well as the authority to execute them (Art. 89). Finally, the Supreme Popular Tribunal gives justice "in the name of the people" (Art. 120) but is "hierarchically subordinated to the National Assembly of Popular Power and to the Council of State" (Art. 121).

The judicial and legislative branches in Cuba are effectively subordinated to the Council of State, and all powers controlled by the communist party. Behind these bodies has long been the figure of Fidel Castro. He was the President of the Council of State until 2006—when health problems forced him to transfer the position to his brother Raúl—, but he is still the Prime Secretary of the Communist Party.

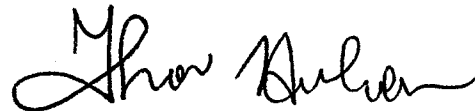
Mr. Insulza, according to the Inter-American Democratic Charter: "democracy is indispensable for the effective exercise of fundamental freedoms and human rights" (Art. 7). The Democratic Charter declares that the peoples of the Americas have a fundamental "right to democracy" (Art. 1) and defines its five "essential elements" (Art. 3). Likewise, the Charter establishes that the unconstitutional alteration or interruption of the democratic order in a member state "constitutes an insurmountable obstacle, while it persists," to the participation of that State's government in the different bodies of the OAS (Art. 19). Finally, under the rationale that the antidemocratic governments will never initiate sanctions against themselves, the democratic clause (Art. 20) grants the Secretary General of the OAS the power to convene the Permanent Council so that it can begin the procedure that may end in the suspension of those governments, which, although elected democratically, have effected the unconstitutional alteration or interruption of one of the essential elements of democracy.

Mr. Insulza, the Cuban people also have a right to democracy, and the suffering they have endured for the past half century cruelly demonstrates the truth of the proposition that democracy

is *indispensable* for the effective exercise of human rights. The antidemocratic character of Castro's government "constitutes, while it persists, an insurmountable obstacle" to its participation in the distinct bodies of the OAS (Art. 19). Nevertheless, you have not only inexcusably failed to exercise your obligation to apply the democratic clause to the governments that have violated it, but are now thinking of "asking" all of the States of the OAS to "eliminate" the resolution that excludes the most antidemocratic government of the continent.

As we expressed in our first letter, "The Inter-American Democratic Charter and Mr. Insulza" project seeks to raise global awareness about the human rights violations occurring in the Americas, and the terrible role you are playing in history by failing to comply with your obligation to invoke the democratic clause of the OAS against those governments which openly attack the essential elements of democracy and that systematically violate the human rights and fundamental freedoms of the people in their territories. However, you have gone from negligence in fulfilling your duty, to activism in undermining the very foundations of the OAS. Just as the antidemocratic governments of the 1970's and 1980's applauded the approving silence of the OAS, today's antidemocratic governments certainly applaud your activism. However, just as then, it is the millions of people in the Americas who will suffer the consequences.

Sincerely,



Thor Halvorssen  
President

cc:

Permanent Mission of Antigua and Barbuda to the OAS, Washington DC (Deborah Mae Lovell)  
Permanent Mission of Argentina to the OAS, Washington DC (Rodolfo Hugo Gil)  
Permanent Mission of Bahamas to the OAS, Washington DC (Cornelius A. Smith)  
Permanent Mission of Barbados to the OAS, Washington DC (Michael I. King)  
Permanent Mission of Belize to the OAS, Washington DC (Nestor Mendez)  
Permanent Mission of Bolivia to the OAS, Washington DC (Reinaldo Cuadros Anaya)  
Permanent Mission of Brazil to the OAS, Washington DC (Osmar Chohfi)  
Permanent Mission of Canada to the OAS, Washington DC (Graeme C. Clark)  
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Permanent Mission of Colombia to the OAS, Washington DC (Camilo Ospina)  
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Permanent Mission of Dominica to the OAS, Washington DC (Judith Anne Rolle)  
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Permanent Mission of Guatemala to the OAS, Washington DC (Jorge Skinner-Klee)  
Permanent Mission of Guyana to the OAS, Washington DC (Bayney R. Karran)  
Permanent Mission of Haiti to the OAS, Washington DC (Duly Brutus)  
Permanent Mission of Honduras to the OAS, Washington DC (Carlos Sosa)  
Permanent Mission of Jamaica to the OAS, Washington DC (Anthony Johnson)  
Permanent Mission of Mexico to the OAS, Washington DC (Gustavo Albin)  
Permanent Mission of Nicaragua to the OAS, Washington DC (Denis Ronaldo Moncada Colindes)  
Permanent Mission of Panama to the OAS, Washington DC (Aristides Royo)

Permanent Mission of Paraguay to the OAS, Washington DC (Manuel María Caceres Cardozo)  
Permanent Mission of Peru to the OAS, Washington DC (María Zavala Valladares)  
Permanent Mission of Dominican Republic to the OAS, Washington DC (Roberto Alvarez)  
Permanent Mission of Saint Kitts and Nevis to the OAS, Washington DC (Dr. Izben C. Williams)  
Permanent Mission of Saint Lucia to the OAS, Washington DC (Michael Louis)  
Permanent Mission of Saint Vincent and the Grenadines to the OAS, Washington DC (La Celia A. Prince)  
Permanent Mission of Suriname to the OAS, Washington DC (Jacques R.C. Kross)  
Permanent Mission of Trinidad and Tobago to the OAS, Washington DC (Glenda Morean-Phillip)  
Permanent Mission of Uruguay to the OAS, Washington DC (María Del Lujan Flores)  
Permanent Mission of Venezuela to the OAS, Washington DC (Roy Chaderton Maton)  
Inter-American Commission on Human Rights (Santiago Cantón)  
Inter-American Court of Human Rights (Sergio García Ramirez)  
Office of the United Nations High Commissioner for Human Rights (Louise Arbor)  
European Counsel Commissioner for Human Rights (Thomas Hammarberg)  
Nicaragua's Permanent Commission for Human Rights (Nicolás Bolaños Geyer)  
International Society for Human Rights (Martin Lessenthin)  
European Parliament – Human Rights Unit (Geoffrey Harris)  
European Parliament – Subcommittee on Human Rights (Hélène Flautre)  
Bertrand Russel Peace Foundation (Ken Coates)  
United Kingdom Parliament – House of the Lords (Lord Avebury)  
Federación Internacional de Derechos Humanos (Jimena Reyes)  
Committee to Protect Journalists (Carlos Lauría)  
Reporters Without Borders (Jean-François Julliard)  
Freedom House (Viviana Giacaman)  
Human Rights Watch (José Miguel Vivanco)  
Human Rights Foundation – Bolivia (Hugo Acha)  
Human Rights Foundation – Ecuador (Andrea Tapia)  
Human Rights Foundation – United Kingdom (Aleksander Boyd)